

FILED
for Roanoke
MAR 12 2007

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JOHN F. CORCORAN, CLERK
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|--------------------------|---|------------------------------|
| CURTIS LEON TAYLOR, SR., |) | |
| Petitioner, |) | Civil Action No. 7:07cv00083 |
| |) | |
| v. |) | <u>MEMORANDUM OPINION</u> |
| |) | |
| GEORGE M. HINKLE, |) | By: Jackson L. Kiser |
| Respondent. |) | Senior U.S. District Judge |

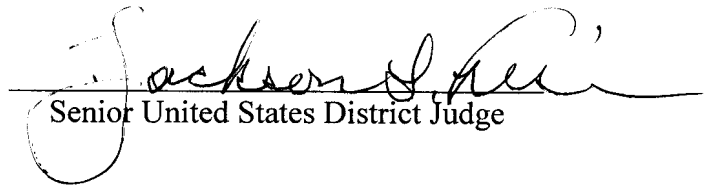
Petitioner Curtis Leon Taylor, Sr., # 319395, a Virginia inmate proceeding pro se, brings this action as a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. In his petition, Taylor challenges the January 23, 2003 hearing that culminated in the January 29, 2003 revocation of his suspended ten-year sentence for forgery and uttering in the same court. This identical issue was previously raised in a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, which I dismissed on July 12, 2005, subsequent to respondent's motion to dismiss and petitioner's response thereto. See Civil Action No. 7:05cv00205. Thereafter, petitioner appealed to the United States Court of Appeals for the Fourth Circuit; the court of appeals denied granting a certificate of appealability and dismissed the appeal on December 30, 2005. See Fourth Circuit Appeal No. 05-7160.

Under the provisions of the federal habeas statutes regarding subsequent or successive § 2254 petitions, the court may consider a second or successive § 2254 petition only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the petition meet certain criteria. See 28 U.S.C. § 2244(b). Because this is a successive petition, and petitioner has not obtained the requisite certification, I shall dismiss the petition. An appropriate order shall be issued this day.

The petitioner is advised that he may appeal this decision, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, if a circuit court of appeals justice or this court issues a certificate of appealability, pursuant to 28 U.S.C. § 2253(c). A certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right. § 2253(c)(1). Petitioner has failed to demonstrate “a substantial showing of the denial of a constitutional right.” Therefore, this court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 537 U.S. 322 (2003); Slack v. McDaniel, 529 U.S. 473 (2000). If petitioner intends to appeal and to seek a certificate of appealability from the Circuit Court of Appeals for the Fourth Circuit, his first step is to file a notice of appeal with this court within 30 days of the date of entry of this Order, or within such extended period as the court may grant pursuant to Rule 4(a)(5).

The Clerk is directed to send certified copies of this memorandum opinion and accompanying order to petitioner and to counsel of record for the respondent.

ENTER: This 12th day of March, 2007.


Senior United States District Judge